

KELLY M. ALBERT,
an individual residing in Michigan,

Plaintiff,

v.

CATHY'S CONCEPTS, INC.,
an Indiana corporation, and
CATHY LAVALLEY,
an individual residing in Indiana,

Defendants.

This is an action for design patent infringement in which Plaintiff, Kelly M. Albert (referred to herein as “Ms. Albert”), complains and alleges as follows against Defendants, Cathy’s Concepts, Inc. and Ms. Cathy LaValley (collectively referred to herein as “Defendants”).

1. Plaintiff, Ms. Albert, is an individual residing in the State of Michigan at the address 6785 White Pines Drive, Brighton, MI 48116.

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3. Upon information and belief Defendant, Ms. Cathy LaValley, is an individual residing in the State of Indiana and who is doing business in this District as the President of Cathy's Concepts, Inc.

JURISDICTION AND VENUE

4. This action arises under the patent laws of the United States, 35 U.S.C. §1 *et seq.* and is an action for patent infringement based on 35 U.S.C. §271.

5. This Court has exclusive subject matter jurisdiction over this dispute pursuant to 28 U.S.C. §1331 and 1338(a).

6. This Court has specific and general personal jurisdiction over Defendants pursuant to due process and/or the Michigan Long Arm Statute because Cathy's Concepts, Inc. and its president Ms. Cathy LaValley have committed and continue to commit acts of infringement in violation 35 U.S.C. §271 by advertising, offering for sale, and/or selling infringing products in the State of Michigan, including in this District.

7. Venue is proper in this judicial district pursuant to 28 U.S.C. §1391 and 28 U.S.C. §1400(b).

JOINDER

8. Joinder of Cathy's Concepts, Inc. and its President, Ms. Cathy LaValley, is proper under 35 U.S.C. §299 because Defendants collectively advertise, offer for sale, and/or sell infringing products in this District and questions of fact are common as to the Defendants in this action.

BACKGROUND

MS. ALBERT'S DEVELOPMENTS AND COMMERCIAL ACTIVITIES

9. In 2007, Ms. Albert began planning her daughter's wedding reception. Despite an exhaustive search, she was unable to find a personal, elegant, and unique wedding card box designed to receive the greeting cards and gift cards that guests commonly leave for newlywed couples. Seeing the need for such a wedding card box, a business opportunity was born.

10. Having found current product offerings to be lacking, Ms. Albert designed her own card receiving box in 2007 and launched a business named Kelly Marie Collections, LLC to sell her new design.

11. Through Kelly Marie Collections, LLC, Ms. Albert manages an internet website at the URL address www.theperfectcardbox.com where she sells her novel card receiving box.

12. An illustrative photograph of Ms. Albert's card receiving box marketed and sold under "The Perfect Card Box®" trademark is depicted below:



13. Ms. Albert has had much success in selling her novel card receiving box for use at a variety of social functions including, but not limited to, weddings, showers, graduations, anniversaries, bar mitzvahs, bat mitzvahs, and retirement parties.

MS. ALBERT'S DESIGN PATENT

14. Ms. Albert has protected her novel card receiving box design by way of securing patent protection.

15. Ms. Albert filed Design Patent Application No. 29/358,976 entitled "Display Device And Gift Holder" on April 2, 2010, which named Ms. Albert as the sole inventor. This application issued as U.S. Design Patent No. D640,484 ("the D'484 Patent") on June 28, 2011. (Copy attached as Exhibit A.)

16. The D'484 Patent is directed to the appearance of Ms. Albert's novel card receiving box.

17. An illustrative drawing of the card receiving box covered by the D'484 Patent is depicted below:

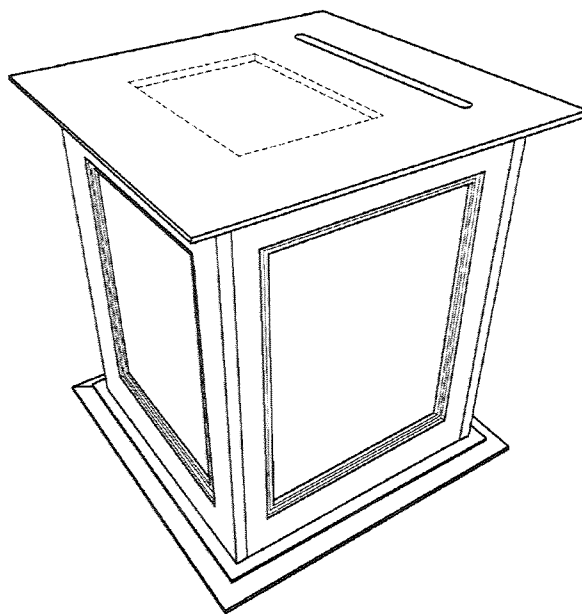


FIG - 1

18. As the sole inventor, Ms. Albert is the owner of the D'484 Patent and has the right to enforce the D'484 Patent.

19. The D'484 Patent is valid and enforceable.

DEFENDANTS' INFRINGING ACTIVITIES

20. Upon information and belief, Defendants advertise, offer for sale, and/or sell a card receiving box ("the Accused Product") on their internet website at URL address www.cathysconcepts.com ("the Cathy's Concepts website").

21. The Accused Product, pictured below, infringes the D'484 Patent because it has the same appearance as the patented design:



22. Defendants' advertising, offers for sale, and/or sales of the Accused Product competes with Ms. Albert and her business Kelly Marie Collections, LLC causing harm to Ms. Albert.

23. The Cathy's Concepts website is interactive and allows customers to directly purchase the Accused Product through the Cathy's Concepts website. (See Exhibit B.)

24. The Cathy's Concepts website targets customers residing in the United States, including customers residing in the State of Michigan.

25. Upon information and belief, Defendants advertise, offer for sale, and/or sell the Accused Product to Michigan customers through a network of stores having its principle place of business located within the State of Michigan. (See Exhibit C.)

26. Upon information and belief, Defendant Ms. Cathy LaValley is the President and founder of Cathy's Concepts and oversees its operations including the advertisement and sale of the Accused Product.

COUNT I
Infringement of the D'484 Patent

27. Ms. Albert incorporates and realleges paragraphs 1 through 26 of this Complaint.

28. Upon information and belief, Defendants advertise, offer for sale, and/or sell products and in particular card receiving boxes that are covered by and therefore infringe the D'484 Patent.

29. Defendants' aforementioned commercial activities constitute an infringement of the D'484 Patent under 35 U.S.C. §271.

JURY DEMAND

Ms. Albert demands a trial by jury on all issues so triable.

RELIEF SOUGHT

WHEREFORE, Ms. Albert respectfully prays for:

A. Judgment that Defendants have infringed the D'484 Patent in violation of 35 U.S.C. §271(a);

B. Permanent injunctive relief prohibiting further infringement of the D'484 Patent by Defendants, its officers, agents, employees, representatives, successors and assigns and those acting in privity or concert with them;

C. An award of damages adequate to compensate Ms. Albert for the patent infringement that has occurred pursuant to 35 U.S.C. §284 or an award of Defendants' profits from its infringement pursuant to 35 U.S.C. §289, whichever is greater, together with prejudgment interest and costs;

D. An assessment of costs, including reasonable attorney fees, pursuant to 35 U.S.C. §285, with prejudgment interest;

E. An award of prejudgment and post judgment interests on the damages caused by Defendants' acts of infringement; and

F. Such other and further relief as this Court deems just and proper.

Respectfully submitted,

HARNESS, DICKEY & PIERCE P.L.C.

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